

RESTORATION OF COASTWISE TRADING PRIVILEGES TO THE VESSEL "LA JOLIE"

NOVEMBER 9, 1983.—Committed to the Committee of the Whole House and
ordered to be printed

Mr. JONES of North Carolina, from the Committee on Merchant
Marine and Fisheries, submitted the following

REPORT

[To accompany S. 1015]

[Including cost estimate of the Congressional Budget Office]

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (S. 1015) to clear certain impediments to the licensing of the vessel *La Jolie* for employment in the coastwise trade, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and substitute:

That, notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of the department in which the Coast Guard is operating shall cause the vessel *La Jolie*, Michigan registration number MC-2807-LB, owned by Hugh Lewis, to be documented as a vessel of the United States with the privilege of engaging in the coastwise trade, on compliance with all other requirements of law.

PURPOSE OF THE LEGISLATION

S. 1015, as reported, will restore coastwise trading privileges to the vessel *La Jolie*.

BACKGROUND AND DISCUSSION

The *La Jolie* (Michigan registration number MC-2780-LB), a vessel of 5 gross tons and 30 feet in length; was built by Sea Ray, Inc., of Florida in 1979; is presently owned by Hugh Lewis of Union Lake, Mich.; is registered as a pleasure boat; and is authorized to operate as a charter boat by the State of Michigan. The present owner would like to use the vessel for charter and commercial fishing.

The vessel cannot be used in our domestic commerce because it had at one time been sold to a Canadian citizen. Accordingly, pursuant to

section 27 of the Merchant Marine Act, 1920, as amended (46 App. U.S.C. 883), the vessel lost its coastwise trading privileges.

Since the loss of coastwise trading privileges is a matter of law, these privileges can only be restored by legislation such as S. 1015. A companion bill, H.R. 3672, has been introduced by the Honorable Bob Carr.

COMMITTEE ACTION

S. 1015 was passed by the Senate on August 4, 1983, and will permit the U.S.-built vessel *La Jolie*, which has a defect in the chain of title, to engage in the coastwise trade. The bill was referred to the Committee on Merchant Marine and Fisheries and subsequently referred to the Subcommittee on Merchant Marine for consideration. A hearing and subcommittee markup were held on November 2, 1983. The Department of Transportation opposed the bill, absent a showing of factual circumstances which present compelling reasons to exempt the vessel from application of the coastwise trading laws. All other testimony and letters received for the record were in support of the legislation.

While restrictions on coastwise trading privileges should not be removed through routine enactment of private bills, there are times when there is a compelling need to prevent an inequitable result or to advance the public interest. In this case, the purchaser of the vessel, Mr. Lewis, was not aware at the time he purchased it that prior ownership by a noncitizen would prevent him from using the vessel in commercial fishing operations. Also, according to his statement, he was not aware at the time of purchase that the previous owner was not a U.S. citizen. Mr. Lewis has invested over \$45,000 in the vessel and will suffer financial hardship if he is not allowed to use it in commercial fishing. The committee believes that these circumstances provide compelling reasons for removing the restriction on coastwise trading for this vessel.

The committee wishes to make it clear that the bill only restores coastwise trading privileges and does not exempt the vessel from other applicable provisions of law, such as those pertaining to inspection, certification, and manning. The committee adopted a technical and clarifying amendment.

On November 9, 1983, the Committee on Merchant Marine and Fisheries considered the bill and endorsed the subcommittee's action. S. 1015, as amended, was ordered reported to the House by unanimous voice vote.

SECTION-BY-SECTION ANALYSIS

The bill consists of one section that provides that, notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the vessel *La Jolie* may engage in the coastwise trade. It removes the cloud on the chain of title that prevents the vessel from engaging in the coastwise trade. It does not exempt the vessel from compliance with any other navigation or safety law.

COST OF LEGISLATION

Pursuant to clause 7 of rule XIII of the Rules of the House of Representatives, the committee estimates that the legislation will result in no additional cost to the Government. The committee has received no different estimate of costs from any executive department.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the committee has concluded that enactment of S. 1015 would have no significant inflationary impact on prices and costs in the operation of the national economy.

COMPLIANCE WITH CLAUSE 2(1)(3) OF RULE XI

With respect to the requirements of clause 2(1)(3) of rule XI of the Rules of the House of Representatives:

(a) No oversight hearings were held on the subject matter of this bill during this session of Congress.

(b) The requirements of section 308(a) of the Congressional Budget Act of 1974 are not applicable to this legislation in that it does not provide new budget authority or new or increased tax expenditures.

(c) The Committee on Government Operations has sent no report to the Committee on Merchant Marine and Fisheries pursuant to clause 4(c)(2) of rule X.

(d) An estimate and comparison of costs for S. 1015 has been received by the committee from the Director of the Congressional Budget Office, pursuant to section 403 of the Congressional Budget Act of 1974 and follows herewith:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., November 9, 1983.

HON. WALTER B. JONES,
Chairman, Committee on Merchant Marine and Fisheries, U.S. House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 1015, a bill to clear certain impediments to the licensing of the vessel *La Jolie* for employment in the coastwise trade, as ordered reported by the House Committee on Merchant Marine and Fisheries, November 9, 1983.

We expect that enactment of this bill would result in no additional cost to federal, state, or local governments. This bill directs the Secretary of the department in which the United States Coast Guard is operating to document the vessel *La Jolie* as a vessel of the United States, with coastwise trading privileges.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES BLUM
(For Rudolph G. Penner).

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

DEPARTMENTAL REPORTS

S. 1015 was the subject of a report from the Department of Transportation, which has primary jurisdiction over the subject matter. The report follows herewith:

STATEMENT FOR THE RECORD OF ADM. HAROLD E. SHEAR, MARITIME ADMINISTRATOR, DEPARTMENT OF TRANSPORTATION, BEFORE THE SUBCOMMITTEE ON MERCHANT MARINE, HOUSE MERCHANT MARINE AND FISHERIES COMMITTEE, WITH RESPECT TO S. 1015, S. 1186, AND S. 1689, NOVEMBER 2, 1983

Mr. Chairman and members of the Subcommittee on Merchant Marine. My name is Harold E. Shear, and I am the Maritime Administrator of the Department of Transportation.

It is a pleasure for me to present the views of the administration with respect to S. 1015, S. 1186 and S. 1689, three bills that would direct the U.S. Coast Guard, upon compliance with the usual requirements, to document the vessels *La Jolie*, *Dad's Pad*, and *Endless Summer*, as vessels of the United States with the privilege of engaging in the coastwise trade. We assume that these bills do not intend to waive applicable inspection, certification, or manning requirements. S. 1015 would provide for the vessel *La Jolie*, S. 1186 concerns the vessel *Dad's Pad*, and S. 1689 names the vessel *Endless Summer*. These bills passed the Senate on August 4, 1983.

Our coastwise laws require that the waterborne transportation of merchandise and passengers between two points in the United States shall be in vessels constructed in the United States, documented under the U.S.-flag, and owned by citizens of the United States. (46 App. U.S.C. 289, 883). Coastwise trading restrictions have been enacted since the founding of the Republic in order to protect and foster the U.S. maritime industry, and this Department has consistently opposed any routine relaxation of this longstanding policy. In this regard, Secretary Elizabeth Dole reaffirmed the sanctity of the so-called Jones Act just a few weeks ago.

The vessel *Dad's Pad*, 32 net tons, official No. 549526, was constructed in 1972 at High Point, N.C. The vessel *Endless Summer*, 37 net tons, official No. 296259, was constructed in 1964 at Thomaston, Maine. Finally the vessel *La Jolie*, 5 net tons, was constructed in 1979 in Florida. The *La Jolie* was never documented, and currently has Michigan registration number MC-2780-LB. These U.S. constructed vessels subsequently lost coastwise trading privileges because of foreign ownership. The proposed legislation before the subcommittee would generally restore these privileges.

The Department of Transportation opposes the enactment of S. 1015, S. 1186, and S. 1689, absent a showing of factual circumstances with respect to each of these small vessels which present compelling reasons to exempt them from the application of the coastwise laws.

Thank you.